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TTAB

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November 2, 2007

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, VA 22314

Via Federal Express Delivery

RE: EDUCHARACTER
Serial No: 78831693

NOTICE OF OPPOSITION

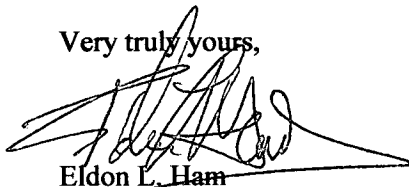
Dear Sir or Madam:

Enclosed please find a renewed Notice of Opposition submitted on behalf of my client edu-characters, LLC (Opposer).

We were informed via email from your offices that our original submission of such Notice of Opposition dated October 10, 2007, failed to include the requisite fee of \$300.00. Accordingly, please find enclosed our check number 3328 payable to United States Patent and Trademark Office in the amount of \$300.00, a copy of our cover letter dated October 10, 2007, as well as a re-executed conformed copy of the original Notice of Opposition.

Thank you very much for your time and attention.

Very truly yours,



Eldon L. Ham

Encl.

11/07/2007 SHILSON1 00000030 78831693

01 FC:6402

300.00 OP



11-05-2007

Subj: **Fwd: TTAB Response**
Date: 10/31/2007 5:01:07 PM Central Daylight Time
From: ELHLAW1
To: Meghan lyn

Did we need a fee to file to get back in? Oh, well.

-----Original Message-----

From: ESTTA@uspto.gov
To: elhlaw1@aol.com
Sent: Wed, 31 Oct 2007 4:47 pm
Subject: TTAB Response

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: TIME \@ "MMMM d, yyyy" October 31, 2007

Applicant: Otis W. Jones
Serial No.: 78831693
Filed: 3/7/06
Mark: EDUCHARACTER

Eldon L. Ham

233 S. Wacker Drive, Suite 9370,
Chicago, IL 60606 UNITED STATES

Millicent Canady, Paralegal Specialist

It is noted that on October 12, 2007, edu-characters, LLC filed a notice of opposition to registration of the mark shown in the above-identified application.

Inasmuch as the opposition was not accompanied by the required fee, the notice of opposition cannot be given consideration. Trademark Rule 2.101(d)(3)(i), as amended effective November 2, 2003.

Accordingly, the papers are hereby returned and any fee charged will be refunded in due course.

Email and AIM finally together. You've gotta check out free AOL Mail!

Thursday, November 01, 2007 America Online: Meghan lyn

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October 10, 2007

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, VA 22314

Via Federal Express Delivery

RE: EDUCHARACTER
Serial No: 78831693

NOTICE OF OPPOSITION

Dear Sir or Madam:

Enclosed please find a Notice of Opposition submitted on behalf of my client edu-characters, LLC (Opposer).

Opposer appreciates that such Notice is subsequent to the original Notice date expiration. However, Opposer is still within the timeframe defined by the requisite potential extensions. Opposer was unable to pay the fee until after the original expiration, and therefore requests the requisite extension based on such hardship. As set forth by the enclosed Notice of Opposition, Opposer's own name used in commerce, and related pending trademark application for the mark EDU-CHARACTERS (No: 78957239) is virtually identical to the above mark in question, which we respectfully suggest should never have been granted in the first place.

Enclosed is the requisite fee of \$300. Please consider allowing such Notice of Opposition for the foregoing reasons. We appreciate your time and consideration.

Very truly yours,


Eldon L. Ham

Encl.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No 78831693
For the mark: EDUCHARACTER

edu-characters, LLC
(Opposer)

v.

Jones, Otis W.
(Applicant)

NOTICE OF OPPOSITION


The above identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes same.

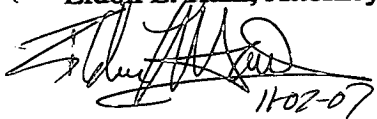
The grounds for opposition are as follows:

1. The Opposer was established as an Illinois limited liability company by Articles of Organization issued on June 19, 2002.
2. The Opposer's name is virtually identical to the mark applied for by applicant, differing only by using the singular versus the plural form (Opposer: edu*characters, and Applicant: EDUCHARACTER), and the stylized differences regarding lower case and the use of a separating punctuation.
3. Opposer has used its name in commerce continually since at least June 19, 2002.
4. Opposer's use of such name in commerce is substantially prior to the purported or planned use of Applicant: June 19, 2002, versus on or after March 7, 2006 (Applicant's "Intent to Use" submission date).
5. Opposer's own pending application (submitted August 22, 2006, number: 78957239) is based upon actual use in commerce, and again the literal mark element is virtually the same as Opposer's, as noted above.
6. Opposers have filed under Class 41 and Applicant has filed under Class 16, both classes being similar in many respects and can and do conflict. Specifically, Opposer has expended considerable time, effort and expense developing and marketing children's stories and books, plus school promotional programs within the purview of its own registration class.

7. The similarities of the respective marks and the often similar categories of uses is very likely to cause the public confusion in the marketplace to the detriment of the public and the Opposer.

WHEREFORE, Opponent hereby requests that Applicant's application be denied for the reasons stated above.

By: 
Eldon L. Ham, Attorney


11-02-07

Date: October 10, 2007

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